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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/743,543

12/23/2003

Ronald C. Newbold JR.

44609

5789

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07/23/2004

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.

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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/743,543

Applicant(s)

NEWBOLD, RONALD C.

Examiner

DHIRU R PATEL

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0704</u> . | 6) <input type="checkbox"/> Other: _____  |

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### Part III DETAILED ACTION

#### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, an enclosure, and fire resistant housing coupled to said first and second support members recited in claim 1 must be shown or the feature(s) canceled from the claim(s). A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

**Note: an enclosure typically constructed with four sides perpendicular to a base in order to something enclosed and the drawings do not show an enclosure. It is noted that in claim 1, a barrier being coupled to a first support member and a second support member and defining an enclosure (element number 46).**

2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 lines 5-6, “a barrier releasably coupled to .... said first and second support members defining an enclosure” is confusing because it is not clear that how a barrier and said first support member and said second support member defining an enclosure?. In electrical art, generally an enclosure typically constructed with four sides perpendicular to a base in order to something enclosed.

In claim 1 lines 7-8, “ a fire resistant.... releasably coupled to said first and second support members” is confusing because the drawings do not show the claimed features.

In claim 17 lines 10-12, “ said first... one open side” is confusing because it is not clear that how said first and second inner surfaces of said first and said second support members defining an enclosure?. In electrical art, generally an enclosure typically constructed with four sides perpendicular to a base in order to something enclosed.

In claim 24 line 7, “ defining an enclosure” is confusing because it is not clear that how coupling a barrier to each of the inner surfaces of the first and second support members defining an enclosure?.

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In electrical art, generally an enclosure typically constructed with four sides perpendicular to a base in order to something enclosed.

**Use claims 1, 17 and 24 as a model, and applicant is encouraged to review remaining claims and revise as required.**

***Allowable Subject Matter***

4. Claims 1, 17 and 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, and the drawings objection set forth in this Office action.

5. Claims 2-16, 18-23 and 25-36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reasons for the indication of the allowability of claims 1-36 are the inclusion therein, in combination as currently claimed, of the limitation of a recessed electrical fixture assembly comprising: a barrier, a fire resistant housing and an electrical unit received in said fire resistant housing (for claims 1-16), a recessed electrical fixture assembly comprising: each of said foldable panels includes first and second foldable end flaps (for claims 17-23), and a method of installing a recessed electrical fixture comprising the steps of: positioning a barrier between first and second support members, inserting a fire resistance housing for supporting an electrical unit into the enclosure through the open side of the barrier (for claims 24-36).

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The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

***Other prior art cited***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moore, McEvers, and Justiniano disclose a box similar to applicant's claimed invention.

***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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Dhiru Patel

Primary Examiner

Group Art Unit 2831

July 22, 2004

*Dhiru R Patel*  
*7/22/04.*

DHIRU R. PATEL  
PRIMARY EXAMINER